



PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Hisatoshi Hirota

Application No.: 09/541,779

Filed: April 3, 2000

Title: CAPACITY CONTROLLER
OF CAPACITY VARIABLE
COMPRESSOR

RECEIVED

11 2 2005

Office of Petitions **OFFICE OF PETITIONS**
Patent and Trademark Office

RECEIVED

JAN 03 2005

OFFICE OF PETITIONS

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Abandonment (Paper No. 9) was entered in the above-identified case by the Examiner on February 25, 2002, for the stated reason that Applicant failed to timely file a proper reply to the Office letter mailed on May 9, 2001.

Applicant hereby petitions under 37 C.F.R. § 1.137(b) for revival of this application for unintentional abandonment. This Petition is filed within two months of October 28, 2004, the date of the first Decision on Petition. A first Petition to Withdraw the Holding of Abandonment Under 37 C.F.R. § 1.181(a) was timely filed on March 11, 2002, in response to the Notice of Abandonment dated February 25, 2002.

12/30/2004 AWONDAF1 0000005 09541779

01 FC:1453

1500.00 OP

A Declaration of Thaddeus C. Stankowski is submitted herewith, in which Mr. Stankowski declares that the entire delay in filing the required reply from the due date for the reply until November 10, 2003, the date Mr. Stankowski left the law firm of Patterson, Thuente, Skaar & Christensen, was unintentional. The undersigned declares that the entire delay in filing the required reply from November 11, 2003, until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. It is therefore respectfully submitted that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

Enclosed herewith are an Amendment and Response to the Office Action of May 9, 2001, and a Supplement Information Disclosure Statement. A check in the amount of \$1,500.00 to cover the petition fee and a check in the amount of \$180.00 to cover the Supplemental Information Disclosure Statement fee are also enclosed. The Commissioner is hereby authorized to charge to Deposit Account No. 16-0631 any underpayment, overpayment, or additionally required fees. This application was filed after June 8, 1995. Therefore, no terminal disclaimer under 37 C.F.R. § 1.321 is required.

The following factual information is supplied for the Commissioner's convenience in support of the above:

1. The undersigned assumed primary responsibility for this file on November 11, 2003.
2. Examiners David Scherbel and Timothy Solak were contacted by telephone between December 2003 and July 2004 to determine the status of the file and the Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(a) that was filed on March 11, 2002, by the Nilles & Nilles firm.

3. A Status Inquiry was filed on March 10, 2004. A response was mailed by the Patent and Trademark Office on March 18, 2004, indicating that the application was abandoned and currently assigned to Examiner Solak.

4. In June 2004, Carolyn Brown in Technology Center 3700 informed this firm via telephone that the file had been marked lost at the Patent Office and that an inventory would take place in August, after which time additional information regarding the status of the file would be available. No written communications from the Patent and Trademark Office regarding the status of the file was received.

5. In September 2004, Edward Look of Group Art Unit 3745 informed the undersigned firm via telephone that the file had been located but was incomplete. Previously filed documents, with facsimile transmission reports where appropriate, were sent by facsimile to the Patent and Trademark Office on September 22, 2004. A true and correct copy of the transmission of September 22, 2004, along with a facsimile transmission report indicating successful transmission to the Patent and Trademark Office, are attached as Attachment A.

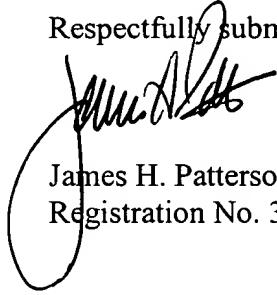
6. A Decision on Petition was mailed on October 28, 2004, dismissing the Petition. The Decision states that it is "a decision on the petition as embodied in the paper styled 'Supplemental Information for Petition to Withdraw Holding of Abandonment', filed by facsimile transmission on September 24, 2004. It appears that a petition to withdraw a holding of abandonment for failure to reply to the Office letter dated May 9, 2001 was previously filed on March 11, 2002 by facsimile transmission, but is not in the record." The Decision provided that a renewed petition may be filed within two months of the date of the Decision. A true and correct copy of this Decision on Petition as received is attached as Attachment B.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be

true; and willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of the patent.

In view of the information above and the attached Declaration of Thaddeus C. Stankowski, it is submitted that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Applicant therefore respectfully petitions under 37 C.F.R. § 1.137(b) for revival of this application for unintentional abandonment.

Respectfully submitted,


James H. Patterson
Registration No. 30,673

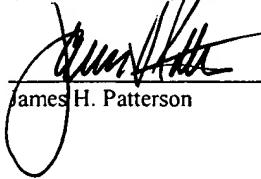
Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5741

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

12/22/04
Date of Deposit


James H. Patterson



*** TX REPORT ***

Rec'd
#16

TRANSMISSION OK

TX/RX NO 0047
 CONNECTION TEL
 CONNECTION ID
 ST. TIME 09/22 16:29
 USAGE T 13 '06
 PGS. SENT 48
 RESULT OK

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, P.A.
 4800 IDS Center, 80 South Eighth Street
 Minneapolis, Minnesota 55402-2100 USA

FACSIMILE COVER SHEET

TELEPHONE: (612) 349-5740 TOLL FREE: 1-800 331-4537
 FACSIMILE: (612) 349-9266

RECEIVED

JAN 03 2005

OFFICE OF PETITIONS

TOTAL NUMBER OF PAGES BEING SENT (INCLUDING COVER SHEET): 49

[] Original documents to follow by mail

[X] No originals will be sent

DATE: September 22, 2004

TO: Mr. Edward Look
 United States Patent & Trademark Office

FAX #: 703-746-4519

PHONE #: 703-308-1044

YOUR REF.: 09/541,779

OUR REF.: 3337.04-US-01

FROM: James H. Patterson, Esq.
 PHONE #: (612) 349-5741

Pursuant to your recent conversation with Ms. Michelle Arcand, attached please find the following documents previously filed in the above-identified case, as requested:

1. Change of Correspondence Address originally filed June 8, 2004 (4 pages)
2. Status Inquiry Response dated March 18, 2004 (1 page)
3. Status Inquiry and Change of Correspondence Address originally filed March 10, 2004 (with Patent Office postcard receipt) (4 pages)
4. Supplemental Information for Petition to Withdraw Holding of Abandonment originally filed by Thaddeus C. Stankowski on February 19, 2003 (8 pages)
5. Supplemental Information for Petition to Withdraw Holding of Abandonment originally filed by Julie A. Zavoral on February 19, 2003 (9 pages)
6. Substitution of Attorney originally filed April 3, 2000 (with Patent Office postcard receipt) (4 pages)
7. Status Inquiry originally filed June 5, 2002 (3 pages)
8. Petition to Withdraw the Holding of Abandonment originally filed March 11, 2002 (14 pages)

ATTACHMENT A

PATTERSON, THUENTE, SKAAR & CHRISTENSEN P.A.
800 IDS Center, 80 South Eighth Street
Minneapolis, Minnesota 55402-2100 USA

FACSIMILE COVER SHEET

TELEPHONE: (612) 349-5740 TOLL FREE: 1-800 331-4537
FACSIMILE: (612) 349-9266

TOTAL NUMBER OF PAGES BEING SENT (INCLUDING COVER SHEET): 49

[] Original documents to follow by mail

[X] No originals will be sent

DATE: September 22, 2004

TO: Mr. Edward Look
United States Patent & Trademark Office

FAX #: 703-746-4519

PHONE #: 703-308-1044

YOUR REF.: 09/541,779

OUR REF.: 332-04-18-01

FROM: James H. Patterson, Esq.
PHONE #: (612) 349-5741

RECEIVED

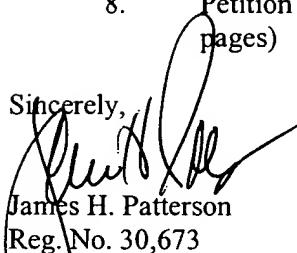
JAN 03 2005

OFFICE OF PETITIONS

Pursuant to your recent conversation with Ms. Michelle Arcand, attached please find the following documents previously filed in the above-identified case, as requested:

1. Change of Correspondence Address originally filed June 8, 2004 (4 pages)
2. Status Inquiry Response dated March 18, 2004 (1 page)
3. Status Inquiry and Change of Correspondence Address originally filed March 10, 2004 (with Patent Office postcard receipt) (4 pages)
4. Supplemental Information for Petition to Withdraw Holding of Abandonment originally filed by Thaddeus C. Stankoswki on February 19, 2003 (8 pages)
5. Supplemental Information for Petition to Withdraw Holding of Abandonment originally filed by Julie A. Zavoral on February 19, 2003 (9 pages)
6. Substitution of Attorney originally filed April 3, 2000 (with Patent Office postcard receipt) (4 pages)
7. Status Inquiry originally filed June 5, 2002 (3 pages)
8. Petition to Withdraw the Holding of Abandonment originally filed March 11, 2002 (14 pages)

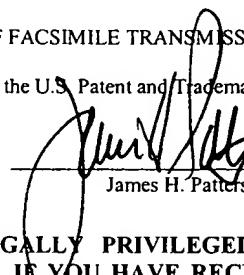
Sincerely,


James H. Patterson
Reg. No. 30,673

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office, Fax No. 703-746-3987 on the date shown below thereby constituting filing of same.

September 22, 2004
Date


James H. Patterson

THIS FACSIMILE TRANSMISSION CONTAINS LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED FOR THE PARTY IDENTIFIED ABOVE. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE CALL PATTERSON, THUENTE, SKAAR & CHRISTENSEN COLLECT AT (612) 349-5740. DISTRIBUTION, REPRODUCTION OR ANY OTHER USE OF THIS TRANSMISSION BY ANY PARTY OTHER THAN THE INTENDED RECIPIENT IS STRICTLY PROHIBITED.

*** TX REPORT ***

TRANSMISSION OK

TX/RX NO	1325
CONNECTION TEL	
CONNECTION ID	
ST. TIME	06/08 14:50
USAGE T	00'47
PGS. SENT	3
RESULT	OK

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 3337.04US01
(formerly W1038.34US01)

Hirota

Confirmation No.: 4974

Application No.: 09/541,779

Examiner: Solak, T.

Filed: April 3, 2000

Group Art Unit: 3746

For: CAPACITY CONTROLLER OF CAPACITY VARIABLE COMPRESSOR

TOTAL NUMBER OF PAGES BEING SENT (INCLUDING THIS COVER PAGE): 3

FACSIMILE TRANSMISSION OF AMENDMENT

Submitted herewith for consideration in the above-identified matter is a Change of Correspondence Address. The Change of Correspondence Address comprises: 2 pages.

Customer No. 24113
Kimberly K. Baxter
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5750

FAX: (612) 349-9266

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 3337.04US01
(formerly W1038.34US01)

Hirota

Confirmation No.: 4974

Application No.: 09/541,779

Examiner: Solak, T.

Filed: April 3, 2000

Group Art Unit: 3746

For: CAPACITY CONTROLLER OF CAPACITY VARIABLE COMPRESSOR

TOTAL NUMBER OF PAGES BEING SENT (INCLUDING THIS COVER PAGE): 3

FACSIMILE TRANSMISSION OF AMENDMENT

Submitted herewith for consideration in the above-identified matter is a Change of Correspondence Address. The Change of Correspondence Address comprises: 2 pages.

Customer No. 24113
Kimberly K. Baxter
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5750

FAX: (612) 349-9266

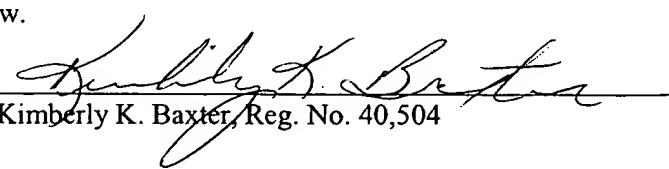
Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office, Fax No. 1-703-872-9306 on the date shown below.

June 8, 2004

Date



Kimberly K. Baxter, Reg. No. 40,504

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 3337.04US01
(formerly W1038.34US01)

Hirota

Confirmation No.: 4974

Application No.: 09/541,779

Examiner: Solak, T.

Filed: April 3, 2000

Group Art Unit: 3746

For: CAPACITY CONTROLLER OF CAPACITY VARIABLE COMPRESSOR

CHANGE OF CORRESPONDENCE ADDRESS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please direct all correspondence in regard to the above-identified application to:

James H. Patterson
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100

Please reference Attorney Docket No. 3337.04US01 on all correspondence.

Additionally, please charge any future fees to Deposit Account No. 16-0631.

Respectfully submitted,



Kimberly K. Baxter
Registration No. 40,504

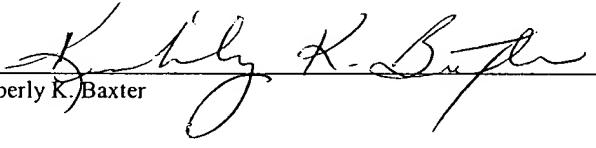
Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5741

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office, Fax No. 1-703-872-9306 on the date shown below.

June 8, 2004
Date


Kimberly K. Baxter

Larry I. Schwartz
United States Patent & Trademark Office
Customer Service Center, Technology Center 3700
 703/306-5648

RECEIVED

MAR 22 2004

PATTERSON, THUENTE, SKAAR
& CHRISTENSEN, P.A.

Date: 3/18/04

Total # of pages including cover sheet: 1

To: James Patterson

Recipient Fax:

From: Larry I. Schwartz
Administrator
Customer Service Center

Sender Fax: 703-872-9301

Memo:

In response to your inquiry:

Application 09541779 is currently in Status: 161 /ABANDONED -- FAILURE TO RESPOND TO AN as of 02/25/2002. The application is currently assigned to SOLAK, TIMOTHY Group Art Unit: 3746. The docketed class/subclass is 417/213.000.

Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax•Fax

Not docketed
P.J.

Best Available Copy

CEIVED

19 2004

The mail stamp of the Patent and Trademark Office on card
acknowledges the filing on the date stamped of: THUENTE, SKAAR
Status Inquiry (1 page); Change of Correspondence Address (1 page);
return postcard.

Applicant: Hirota
Application No.: 09/541,779
File No.: 3337.04-US-01
Due Date:
Initials: JHP/vpm

Mailed: March 10, 2004 (via First Class Mail)



Response re
Status re 6-10-04
(2)

DOCKETED

The mail stamp of the Patent and Trademark Office on card
acknowledges the filing on the date stamped of:
Status Inquiry (1 page); Change of Correspondence Address (1 page);
return postcard.

Applicant: Hirota
Application No.: 09/541,779
File No.: 3337.04-US-01
Due Date:
Initials: JHP/vpm

Mailed: March 10, 2004 (via First Class Mail)

DOCKETED

Response to Status
Received 7. 6-16-04
JHP

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Hirota

Attorney Docket No.: 3337.04US01
(Attorney Docket No. Formerly W1038.34US01

Application No.: 09/541,779

Filed: April 3, 2000

Group Art Unit: 3746

For: CAPACITY CONTROLLER OF CAPACITY VARIABLE COMPRESSOR

RECEIVED

STATUS INQUIRY

JAN 03 2005

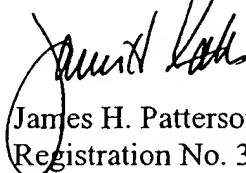
OFFICE OF PETITIONS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please indicate when the status of the above-referenced application

Respectfully submitted,


James H. Patterson
Registration No. 30,673

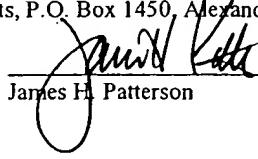
Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5741

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

03/10/04
Date of Deposit


James H. Patterson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Hirota

Attorney Docket No.: 3337.04US01
(Attorney Docket No. Formerly W1038.34US01

Application No.: 09/541,779

Filed: April 3, 2000

Group Art Unit: 3746

For: CAPACITY CONTROLLER OF CAPACITY VARIABLE COMPRESSOR

CHANGE OF CORRESPONDENCE ADDRESS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please direct all correspondence in regard to the above-identified application to:

James H. Patterson
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100

Respectfully submitted,


James H. Patterson
Registration No. 30,673

Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5741

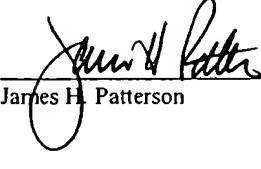
Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

03/10/04

Date of Deposit


James H. Patterson

MODE = MEMORY TRANSMISSION

START=MAR-11 12:49 END=MAR-11 12:53

FILE NO.=431

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	8	17033086916	013/013	00:03:40

-NILLES NILLES -

***** -NILLES NILLES - * * * * - 414 276 0982- *****

NILLES & NILLES, s.c.

JAMES E. NILLES
 S. MICHAEL PATTON
 LINDA E.B. HANSEN

CHARLOTTE SHAPIRO
 THADDEUS C. STANKOWSKI

INTELLECTUAL PROPERTY ATTORNEYS

FIRSTAR CENTER, SUITE 2000
 777 EAST WISCONSIN AVENUE
 MILWAUKEE, WI 53202-5345

TELEPHONE: 414.276.0977
 FAXSIMILE: 414.276.0982
 EMAIL: jnilles@nilles-nilles.com

FACSIMILE TRANSMITTAL SHEET

TO:	Office of Petitions			FROM:	James E. Nilles	
COMPANY:	U.S. Patent Office			DATE:	March 11, 2002	
FAX NO.:	703-308-6916			PAGES:	13 (Including cover sheet)	
RE:	U.S. Ser. No. 09/541,779 Attorney Docket 133.046			OPERATOR:	Diane Schwaiger	
<input type="checkbox"/> Original Will Follow		<input checked="" type="checkbox"/> Original Will Not Follow		<input type="checkbox"/> Enclosures Will Follow With Original		
<input type="checkbox"/> Urgent		<input type="checkbox"/> For Review		<input type="checkbox"/> Please Comment		<input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle

Sir:

Attached are the following documents in connection with patent application U.S. Serial No. 09/541,779:

- 1) Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181(a)
- 2) Preliminary Amendment (seven pages) faxed to U.S. Patent Office on April 30, 2001
- 3) Fax sheet confirming 007/007 pages of Preliminary Amendment sent

G:\Data\CLIENT\133\046\PTO-FAX.doc

*****-COMM-AL-***** DATE JUN-05-21 * TIME 12:32 *****

MODE = MEMORY TRANSMISSION

START=JUN-05 12:31 END=JUN-05 12:32

FILE NO. -359

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	2	17033086916	002/002	00:08:39

-NILLES NILLES

***** - NILLES NILLES - ***** 414 276 0982- *****

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Attention: Office of Petitions, on the date shown below.

Facsimile: 703-308-6916
Pages - 2
Date: June 5, 2002

Diane Schwaiger

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hisatoshi Hirota

Group Art Unit 3746

Serial No.: 09/541,779

Examiner: T. Solak

Filing Date: April 3, 2000

Docket No. 133.046

For: *Capacity Controller of Capacity Variable Compressor*

Customer No. 023907

STATUS INQUIRY

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

Sir:

Applicant respectfully requests the status of the above application and when an action will be issued concerning the documents that were filed in the U.S. Patent Office by facsimile on March 11, 2002. The documents transmitted included:

- 1) Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181(a).
- 2) Preliminary Amendment (seven pages) originally faxed to the U.S. Patent Office on April 30, 2001.
- 3) Fax sheet confirming 007/07 pages of Preliminary Amendment was faxed to the U.S. Patent Office.

MODE = MEMORY TRANSMISSION

START=FEB-19 17:15 END=FEB-19 17:18

FILE NO.=817

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	8	17037464590	008/008	00:02:55

-PATTERSON THUENTE WI -

***** -PATTERSON WI - ***** 414 276 0982- *****

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, LLC
 2000 US Bank Center
 777 East Wisconsin Avenue
 Milwaukee, Wisconsin 53202-5345

FACSIMILE COVER SHEET

TELEPHONE: (414) 276-0977

FACSIMILE: (414) 276-0982

TOTAL NUMBER OF PAGES BEING SENT (INCLUDING COVER SHEET): 8

 Original documents to follow by mail No originals will be sent

DATE: 19 February 2003

TO: EXAMINER SCHERBEL, BOX DAC

FAX #: (703) 746-4590

PHONE#: (703) 308-1272

YOUR REF.: USSN 09/541,779

OUR REF.: W1031.45-US-01
[Formerly 133.046]

FROM: THADDEUS C. STANKOWSKI

PHONE#: (414) 276-0977

COMMENTS:

*

THIS FACSIMILE TRANSMISSION CONTAINS LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED FOR THE PARTY IDENTIFIED ABOVE. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE CALL PATTERSON, THUENTE, SKAAR & CHRISTENSEN COLLECT AT (414) 276-0977. DISTRIBUTION, REPRODUCTION OR ANY OTHER USE OF THIS TRANSMISSION BY ANY PARTY OTHER THAN THE INTENDED RECIPIENT IS STRICTLY PROHIBITED.

FACSIMILE SENT BY J. WHITE

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, LLC
2000 US Bank Center
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5345

FACSIMILE COVER SHEET

TELEPHONE: (414) 276-0977

FACSIMILE: (414) 276-0982

TOTAL NUMBER OF PAGES BEING SENT (INCLUDING COVER SHEET): **8**

Original documents to follow by mail No originals will be sent

DATE: 19 February 2003

TO: EXAMINER SCHERBEL, BOX DAC **FAX #:** (703) 746-4590

PHONE#: (703) 308-1272

YOUR REF.: USSN 09/541,779 **OUR REF.:** W1031.45-US-01
[Formerly 133.046]

FROM: THADDEUS C. STANKOWSKI

PHONE#: (414) 276-0977

COMMENTS:

*

THIS FACSIMILE TRANSMISSION CONTAINS LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED FOR THE PARTY IDENTIFIED ABOVE. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE CALL PATTERSON, THUENTE, SKAAR & CHRISTENSEN COLLECT AT (414) 276-0977. DISTRIBUTION, REPRODUCTION OR ANY OTHER USE OF THIS TRANSMISSION BY ANY PARTY OTHER THAN THE INTENDED RECIPIENT IS STRICTLY PROHIBITED.

FACSIMILE SENT BY J. WHITE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Hisatoshi HIROTA)
Application No.: 09/541,779) Office of Petitions
Patent and Trademark Office
Filed: April 3, 2000)
Title: CAPACITY CONTROLLER)
OF CAPACITY VARIABLE)
COMPRESSOR)

**SUPPLEMENTAL INFORMATION FOR PETITION
TO WITHDRAW HOLDING OF ABANDONMENT**

ATTN: Examiner Scherbel
Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This supplemental information is being provided to clarify the information provided in the original Petition to Withdraw Holding of Abandonment, which was faxed to the PTO on March 11, 2002.

This supplemental information is being provided by the firm of Patterson, Thuente, Skaar & Christensen, L.L.C. The Patterson firm has taken over responsibility for the above-identified patent application from Mr. James E. Nilles, who has recently retired and closed the Nilles & Nilles, S.C. firm. The Patterson firm is a separate entity from the Nilles firm, but has taken over the space formerly occupied by the Nilles firm, and has access to the docketing system formerly used by the Nilles firm.

Applicant asserts that the Office communication having a mailing date of May 9, 2001, which was received from the PTO, did not include an Office Action.

In particular, Applicant asserts that the Office communication having a mailing date of May 9, 2001 merely included a PTO-90C cover sheet, a PTO-413 form comprising two pages, (one sheet titled Interview Summary and the second sheet titled Summary of Record Interview Requirements), and a Notice of Draftsperson's Patent Drawing Review.

A search of the file jacket reveals that the above-listed items are the only items in the file for this application corresponding to the May 9, 2001 Office communication. No Office Action appears in the file, nor any indication that an Office Action was received appears in the file. The only prior art references in the file are those that were listed on form PTO-1449, submitted with an Information Disclosure Statement dated March 9, 2001.

When the May 9, 2001 Office communication was received, the person (unknown) who did the docketing at the Nilles firm did docket two dates: a three month date of Aug. 9, 2001 and a six month date of Nov. 9, 2001. It must be noted, however, that these entries were entered in the docket system with entry code 1, which is "Office Action or Examiner's Letter." Quite possibly, the person who did the docketing was unsure about what to do with an Interview Summary, and to be on the safe side, docketed standard response times. A copy of the docketed items that are printed out as stickers and attached to the Office communication is attached hereto.

On August 31, 2001, for whatever reason, the docket records pertaining to the Office communication were deleted. A search of the file jacket and computer word processing files indicate that no Response to an Office Action was ever prepared or attempted. Quite possibly, at that time, Mr. Nilles reviewed the file jacket, noted only an Interview Summary, and requested that the docket records be deleted.

The handwritten notes of Mr. Nilles in this file written on a sheet of yellow paper dated Feb. 22, 2002 state: "I only rec'd interview summary (1 page) and never rec'd action."

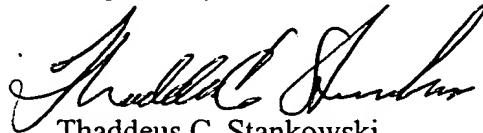
Thus, Applicant asserts that this Application was not properly held abandoned. Accordingly, Applicant requests the withdrawal of the holding of abandonment.

Thus, Applicant asserts that this Application was not properly held abandoned. Accordingly, Applicant requests the withdrawal of the holding of abandonment.

Should the Examiner have any further questions or comments, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this or any other communication from or to credit any overpayments to Deposit Account No. 50-2522.

Respectfully submitted,



Thaddeus C. Stankowski
Attorney for Applicant(s)
Registration No. 45,522

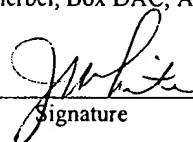
Customer No. 35110
Patterson, Thuente, Skaar & Christensen, LLC
2000 US Bank Center
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5345
Telephone: (414) 276-0977
Facsimile: (414) 276-0982

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 50-2522

CERTIFICATE OF FACSIMILE

I hereby certify that this document is being deposited with the United States Patent and Trademark Office via facsimile transmission to (703) 746-4590 to the Attention of: Examiner Scherbel, Box DAC, Assistant Commissioner for Patents, Washington, D.C. 20231 on 18 February 2003.

J. White
Printed Name


Signature

**UNITED STATES DEPARTMENT OF COMMERCE****United States Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/541,779 04/08/00 HIRUTA

11 133,046

JAMES E Nilles
Nilles & Nilles, S.C.
CISTER CENTER SUITE 2000
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5345

09010509

EXAMINER

SOLAK, T

ART UNIT

PAPER NUMBER

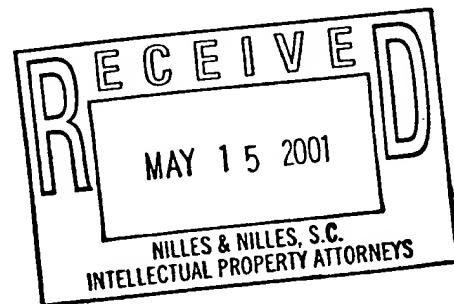
3740

DATE MAILED:

05/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



FILE NO:US09541779ATTY:JEN
DUE DATE:08-09-2001 (20010809)
GRUNECKER, KINK/INIT:(20010509)
ACTION:01 RES PER:3 M DK1
/ 14740

FILE NO:US09541779ATTY:JEN
DUE DATE:11-09-2001 (20011109)
GRUNECKER, KINK/INIT:(20010509)
ACTION:01 RES PER:6 MONTHS DK1
6 Month Follow-up Notice / 14741

Interview Summary	Application No.	Applicant(s)
	09/541,779	HIROTA, HISATOSHI
	Examiner Timothy P. Solak	Art Unit 3746

All participants (applicant, applicant's representative, PTO personnel):

(1) Timothy P. Solak. (3) _____
 (2) Mr. Nilles. (4) _____

Date of Interview: 27 April 2001.

Type: a) Telephonic b) Video Conference
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
 If Yes, brief description: _____

Claim(s) discussed: 1-10.

Identification of prior art discussed: None.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: I informed Mr. Nilles of problems in claims 1-9, namely claims 1-3 were narrative in nature and lacked structure and (method) claims 8-9 lacked steps. Mr. Nilles informed me that he would fax a pre-amendment.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an
 Attachment to a signed Office action.

 Examiner's signature, if required

NOTICE OF DRAFTPERSON'S
PATENT DRAWING REVIEWThe drawing filed (insert date) 4/3/00 are:A. not objected to by the Draftperson under 37 CFR 1.84 or 1.152.B. objected to by the Draftperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings where necessary. Corrected drawings must be submitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:

Black ink. Color.

 Color drawing are not acceptable until petition is granted.

Fig.(s) _____

 Pencil and non black ink is not permitted. Fig(s) _____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

 Photographs are not acceptable until petition is granted. 3 full-tone sets are required. Fig(s) _____ Photographs not properly mounted (must bristol board or photographic double-weight paper). Fig(s) _____ Poor quality (half-tone). Fig(s) _____

3. TYPE OF PAPER. 37 CFR 1.84(e)

 Paper not flexible, strong, white and durable.

Fig.(s) _____

 Erasures, alterations, overwritings, interlineations, folds, copy machine marks not acceptable. (too thin) Mylar, vellum paper is not acceptable (too thin).

Fig(s) _____

4. SIZE OF PAPER. 37 CFR 1.84(F): Acceptable sizes:

 21.0 cm by 29.7 cm (DIN size A4) 21.6 cm by 27.9 cm (8 1/2 x 11 inches) All drawings sheets not the same size.

Sheet(s) _____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

SIZE: A4 Size

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

SIZE: 8 1/2 x 11

 Margins not acceptable. Fig(s) _____

Top (T) _____ Left (L) _____

Right (R) _____ Bottom (B) _____

6. VIEWS. CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes.

 Views connected by projection lines or lead lines.

Fig.(s) _____

Partial views. 37 CFR 1.84(h)(2)

 Brackets needed to show figure as one entity.

Fig.(s) _____

 Views not labeled separately or properly.

Fig.(s) _____

 Enlarged view not labeled separately or properly.

Fig.(s) _____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

 Hatching not indicated for sectional portions of an object.

Fig.(s) _____

 Sectional designation should be noted with Arabic or Roman numbers. Fig.(s) _____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

 Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned, so that the top becomes the right side, except for graphs. Fig.(s) _____ Views not on the same plane on drawing sheet. Fig.(s) _____

9. SCALE. 37 CFR 1.84(k)

 Scale not large enough to show mechanism with crowding when drawing is reduced in size to two-thirds in reproduction.

Fig.(s) _____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

 Lines, numbers & letters not uniformly thick and well defined, clean, durable and black (poor line quality).Fig.(s) 1 5 6 8

11. SHADING. 37 CFR 1.84(m)

 Solid black areas pale. Fig.(s) _____ Solid black shading not permitted. Fig.(s) _____ Shade lines, pale, rough and blurred. Fig.(s) _____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS.

37 CFR 1.48(p)

 Numbers and reference characters not plain and legible.

Fig.(s) _____

 Figure legends are poor. Fig.(s) A 11 Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(3) Fig.(s) _____ English alphabet not used. 37 CFR 1.84(p)(3) Fig.(s) _____ Numbers, letters and reference characters must be at least

.32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3) Fig.(s) _____

13. LEAD LINES. 37 CFR 1.84(q)

 Lead lines cross each other. Fig.(s) _____ Lead lines missing. Fig.(s) _____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.48(l)

 Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Fig.(s) _____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

 Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig.(s) _____

16. CORRECTIONS. 37 CFR 1.84(w)

 Corrections not made from PTO-948 dated _____

17. DESIGN DRAWINGS. 37 CFR 1.152

 Surface shading shown not appropriate. Fig.(s) _____ Solid black shading not used for color contrast.

Fig.(s) _____

COMMENTS

REVIEWER _____

DBRDATE 4/30/01TELEPHONE NO. 703 208 1359ATTACHMENT TO PAPER NO. 8

APPLICANT'S COPY

MODE = MEMORY TRANSMISSION

START=FEB-19 14:42 END=FEB-19 14:46

FILE NO.=811

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	8	17037464590	008/008	00:02:54

-PATTERSON THUENTE WI -

*****-PATTERSON WI - 414 276 0982-*****

PATTERSON, THUENTE, SKAAR & CHRISTENSEN, LLC
 2000 US Bank Center
 777 East Wisconsin Avenue
 Milwaukee, Wisconsin 53202-5345

FACSIMILE COVER SHEET

TELEPHONE: (414) 276-0977

FACSIMILE: (414) 276-0982

TOTAL NUMBER OF PAGES BEING SENT (INCLUDING COVER SHEET): 8

[] Original documents to follow by mail No originals will be sent

DATE: 19 February 2003

TO: EXAMINER SCHERBEL, BOX DAC

FAX #: (703) 746-4590

PHONE#: (703) 308-1272

YOUR REF.: USSN 09/541,779

OUR REF.: W1031.45-US-01
[Formerly 133.046]

FROM: JULIE A. ZAVORAL

PHONE#: (414) 276-0977

COMMENTS:

THIS FACSIMILE TRANSMISSION CONTAINS LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED FOR THE PARTY IDENTIFIED ABOVE. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE CALL PATTERSON, THUENTE, SKAAR & CHRISTENSEN COLLECT AT (414) 276-0977. DISTRIBUTION, REPRODUCTION OR ANY OTHER USE OF THIS TRANSMISSION BY ANY PARTY OTHER THAN THE INTENDED RECIPIENT IS STRICTLY PROHIBITED.

FACSIMILE SENT BY J. WHITE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Hisatoshi HIROTA)
Application No.: 09/541,779) Office of Petitions
Patent and Trademark Office
Filed: April 3, 2000)
Title: CAPACITY CONTROLLER)
OF CAPACITY VARIABLE)
COMPRESSOR)
)

**SUPPLEMENTAL INFORMATION FOR PETITION
TO WITHDRAW HOLDING OF ABANDONMENT**

ATTN: Examiner Scherbel
Box DAC
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This supplemental information is being provided to clarify the information provided in the original Petition to Withdraw Holding of Abandonment, which was faxed to the PTO on March 11, 2002.

This supplemental information is being provided by the firm of Patterson, Thuente, Skaar & Christensen, L.L.C. The Patterson firm has taken over responsibility for the above-identified patent application from Mr. James E. Nilles, who has recently retired and closed the Nilles & Nilles, S.C. firm. The Patterson firm is a separate entity from the Nilles firm, but has taken over the space formerly occupied by the Nilles firm, and has access to the docketing system formerly used by the Nilles firm.

Applicant asserts that the Office communication having a mailing date of May 9, 2001, which was received from the PTO, did not include an Office Action.

In particular, Applicant asserts that the Office communication having a mailing date of May 9, 2001 merely included a PTO-90C cover sheet, a PTO-413 form comprising two pages, (one sheet titled Interview Summary and the second sheet titled Summary of Record Interview Requirements), and a Notice of Draftperson's Patent Drawing Review.

A search of the file jacket reveals that the above-listed items are the only items in the file for this application corresponding to the May 9, 2001 Office communication. No Office Action appears in the file, nor any indication that an Office Action was received appears in the file. The only prior art references in the file are those that were listed on form PTO-1449, submitted with an Information Disclosure Statement dated March 9, 2001.

When the May 9, 2001 Office communication was received, the person (unknown) who did the docketing at the Nilles firm did docket two dates: a three month date of Aug. 9, 2001 and a six month date of Nov. 9, 2001. It must be noted, however, that these entries were entered in the docket system with entry code 1, which is "Office Action or Examiner's Letter." Quite possibly, the person who did the docketing was unsure about what to do with an Interview Summary, and to be on the safe side, docketed standard response times. A copy of the docketed items that are printed out as stickers and attached to the Office communication is attached hereto.

On August 31, 2001, for whatever reason, the docket records pertaining to the Office communication were deleted. A search of the file jacket and computer word processing files indicate that no Response to an Office Action was ever prepared or attempted. Quite possibly, at that time, Mr. Nilles reviewed the file jacket, noted only an Interview Summary, and requested that the docket records be deleted.

The handwritten notes of Mr. Nilles in this file written on a sheet of yellow paper dated Feb. 22, 2002 state: "I only rec'd interview summary (1 page) and never rec'd action."

Thus, Applicant asserts that this Application was not properly held abandoned. Accordingly, Applicant requests the withdrawal of the holding of abandonment.

Should the Examiner have any further questions or comments, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this or any other communication from or to credit any overpayments to Deposit Account No. 50-2522.

Respectfully submitted,



Julie A. Zavoral
Attorney for Applicant(s)
Registration No. 43,304

Customer No. 35110
Patterson, Thuente, Skaar & Christensen, LLC
2000 US Bank Center
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5345
Telephone: (414) 276-0977
Facsimile: (414) 276-0982

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 50-2522

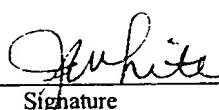
CERTIFICATE OF FACSIMILE

(703) 746-4590

I hereby certify that this document is being deposited with the United States Patent and Trademark Office via facsimile transmission to (703) 308-6916 to the Attention of: Examiner Scherbel, Box DAC, Assistant Commissioner for Patents, Washington, D.C. 20231 on 18 February 2003.

J. White

Printed Name



Signature

Should the Examiner have any further questions or comments, the Examiner is invited to contact the Applicant's undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this or any other communication from or to credit any overpayments to Deposit Account No. 50-2522.

Respectfully submitted,



Julie A. Zavoral
Attorney for Applicant(s)
Registration No. 43,304

Customer No. 35110
Patterson, Thuente, Skaar & Christensen, LLC
2000 US Bank Center
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5345
Telephone: (414) 276-0977
Facsimile: (414) 276-0982

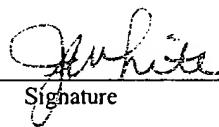
Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 50-2522

CERTIFICATE OF FACSIMILE

(703) 746-4590
I hereby certify that this document is being deposited with the United States Patent and Trademark Office via facsimile transmission to (703) 308-6946 to the Attention of: Examiner Scherbel, Box DAC, Assistant Commissioner for Patents, Washington, D.C. 20231 on 18 February 2003.

J. White

Printed Name



Signature



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/541,779 04/09/00 HIRUTA

14 133,046

0902/0502

JAMES E. NILLES
Nilles & Nilles, S.C.
51STAR CENTER SUITE 2000
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5345

EXAMINER

SOLAK, T

ART UNIT

PAPER NUMBER

3746

DATE MAILED:

05/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



FILE NO:US09541779ATTY:JEN
DUE DATE:08-09-2001 (20010809)
GRUNECKER, KINK/INIT:(20010509)
ACTION:01 RES PER:3 M DK1
/ 14740

FILE NO:US09541779ATTY:JEN
DUE DATE:11-09-2001 (20011109)
GRUNECKER, KINK/INIT:(20010509)
ACTION:01 RES PER:6 MONTHS DK1
6 Month Follow-up Notice / 14741

Interview Summary	Application No.	Applicant(s)
	09/541,779	HIROTA, HISATOSHI
	Examiner Timothy P. Solak	Art Unit 3746

All participants (applicant, applicant's representative, PTO personnel):

(1) Timothy P. Solak. (3) _____
 (2) Mr. Nilles. (4) _____

Date of Interview: 27 April 2001.

Type: a) Telephonic b) Video Conference
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
 If Yes, brief description:

Claim(s) discussed: 1-10.

Identification of prior art discussed: None.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: I informed Mr. Nilles of problems in claims 1-9, namely claims 1-3 were narrative in nature and lacked structure and (method) claims 8-9 lacked steps. Mr. Nilles informed me that he would fax a pre-amendment.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

 Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

NOTICE OF DRAFTPERSON'S
PATENT DRAWING REVIEWThe drawing filed (insert date) 4/3/00 are:

A. not objected to by the Draftperson under 37 CFR 1.84 or 1.152.

B. objected to by the Draftperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings where necessary. Corrected drawings must be submitted according to the instructions on the back of this notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:

Black ink. Color.

 Color drawing are not acceptable until petition is granted.

Fig.(s) _____

 Pencil and non black ink is not permitted. Fig(s) _____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

 Photographs are not acceptable until petition is granted. 3 full-tone sets are required. Fig(s) _____ Photographs not properly mounted (must bristol board or photographic double-weight paper). Fig(s) _____ Poor quality (half-tone). Fig(s) _____

3. TYPE OF PAPER. 37 CFR 1.84(c)

 Paper not flexible, strong, white and durable.

Fig.(s) _____

 Erasures, alterations, overwritings, interlineations, folds, copy machine marks not acceptable. (too thin) Mylar, vellum paper is not acceptable (too thin).

Fig(s) _____

4. SIZE OF PAPER. 37 CFR 1.84(F): Acceptable sizes:

 21.0 cm by 29.7 cm (DIN size A4) 21.6 cm by 27.9 cm (8 1/2 x 11 inches) All drawings sheets not the same size.

Sheet(s) _____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

SIZE: A4 Size

Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

SIZE: 8 1/2 x 11

 Margins not acceptable. Fig(s) _____ Top (T) _____ Left (L) _____ Right (R) _____ Bottom (B) _____

6. VIEWS. CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes.

 Views connected by projection lines or lead lines.

Fig.(s) _____

Partial views. 37 CFR 1.84(h)(2)

 Brackets needed to show figure as one entity.

Fig.(s) _____

 Views not labeled separately or properly.

Fig.(s) _____

 Enlarged view not labeled separately or properly.

Fig.(s) _____

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

 Hatching not indicated for sectional portions of an object.

Fig.(s) _____

 Sectional designation should be noted with Arabic or Roman numbers. Fig.(s) _____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

 Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned, so that the top becomes the right side, except for graphs. Fig.(s) _____ Views not on the same plane on drawing sheet. Fig.(s) _____

9. SCALE. 37 CFR 1.84(k)

 Scale not large enough to show mechanism with crowding when drawing is reduced in size to two-thirds in reproduction.

Fig.(s) _____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

 Lines, numbers & letters not uniformly thick and well defined, clean, durable and black (poor line quality).Fig.(s) 1 5 6 8

11. SHADING. 37 CFR 1.84(m)

 Solid black areas pale. Fig.(s) _____ Solid black shading not permitted. Fig.(s) _____ Shade lines, pale, rough and blurred. Fig.(s) _____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS.

37 CFR 1.48(p)

 Numbers and reference characters not plain and legible.

Fig.(s) _____

 Figure legends are poor. Fig.(s) A 11 Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(3) Fig.(s) _____ English alphabet not used. 37 CFR 1.84(p)(3) Fig.(s) _____ Numbers, letters and reference characters must be at least

3.2 cm (1/8 inch) in height. 37 CFR 1.84(p)(3) Fig.(s) _____

13. LEAD LINES. 37 CFR 1.84(q)

 Lead lines cross each other. Fig.(s) _____ Lead lines missing. Fig.(s) _____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.48(t)

 Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Fig.(s) _____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

 Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig.(s) _____

16. CORRECTIONS. 37 CFR 1.84(w)

 Corrections not made from PTO-948 dated _____

17. DESIGN DRAWINGS. 37 CFR 1.152

 Surface shading shown not appropriate. Fig.(s) _____ Solid black shading not used for color contrast.

Fig.(s) _____

COMMENTS

REVIEWER _____

OPRDATE 4/30/01TELEPHONE NO. 203 308 1359

8

ATTACHMENT TO PAPER NO. _____

APPLICANT'S COPY

Serial No. 09/541,779
Inventors: Hirota

Filed: April 3, 2000
Docket 133.046
Atty: JEN:ds

The following dated December 5, 2002 has been received in the U.S. Patent Office on the **DATE STAMPED** hereon:

Substitution of Attorney (2 pages)



Serial No. 09/541,779
Inventors: Hirota

Filed: April 3, 2000
Docket 133.046
Atty: JEN:ds

The following dated December 5, 2002 has been received in the U.S. Patent Office on the **DATE STAMPED** hereon:

Substitution of Attorney (2 pages)

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on the date indicated below.

Diane Schwager

Date: December 5, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hisatoshi Hirota

Group Art Unit 3746

Serial No.: 09/541,779

Docket No. 133.046

Filed: April 3, 2000

Confirmation No. 4974

For: *Capacity Controller of Capacity Variable Compressor*

SUBSTITUTION OF ATTORNEY

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I hereby appoint the following attorneys/agents to prosecute the above-identified application and to transact all business in the U.S. Patent and Trademark Office connected therewith:

James H. Patterson, Reg. No. 30,673; John F. Thuente, Reg. No. 29,595; Wm. Larry Alexander, Reg. No. 37,269; Kimberly K. Baxter, Reg. No. 40,504; Eric H. Chadwick, Reg. No. 41,664; Randall T. Skaar, Reg. No. 42,151; Douglas J. Christensen, Reg. No. 35,480; Curtis B. Herbert, Reg. No. 45,443; Michael A. Bondi, Reg. No. 39,616; Paul C. Onderick, Reg. No. 45,354; Brad D. Pedersen, Reg. No. 32,432; Scott G. Ulbrich, Reg. No. 48,005; David A. Olsen, Reg. No. 46,969; Peter S. Dardi, Reg. No. 39,650; Jose W. Jimenez, Reg. No. 31,113; Matthew T. Macari, Reg. No. 50,291; Thomas G. Dickson, Reg. No. 51,616; Bradley J. Thorson, Reg. No. 52,288; Plymouth D. Nelson, Reg. No. 48,172; Julie A. Zavoral, Reg. No. 43,304; and Thaddeus C. Stankowski, Reg. No. 45,522.

SUBSTITUTION OF ATTORNEY

U.S. Serial No. 09/541,779

Inventor: Hirota; Art Unit 3746

Attorney Docket 133.046

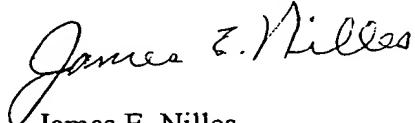
Page 2

Please forward all correspondence to the address listed below:

Patterson, Thuente, Skaar & Christensen, L.L.C.
US Bank Building, Suite 2000
777 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: 414-276-0977
Facsimile: 414-276-0982

All previous powers of attorney granted in this case are hereby revoked.

Respectfully submitted,



James E. Nilles
Attorney of Record
Registration No. 16,663

Date: December 5, 2002

NILLES & NILLES, S.C.
U.S. Bank Center, Suite 2000
777 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone (414) 276-0977
Facsimile (414) 276-0982

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Attention: Office of Petitions, on the date shown below.

Diane Schwaiger
Diane Schwaiger

Facsimile: 703-308-6916
Pages - 2
Date: June 5, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hisatoshi Hirota

Group Art Unit 3746

Serial No.: 09/541,779

Examiner: T. Solak

Filing Date: April 3, 2000

Docket No. 133.046

For: *Capacity Controller of Capacity Variable Compresssor*

Customer No. 023907

STATUS INQUIRY

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

Sir:

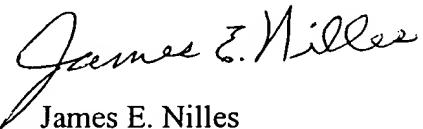
Applicant respectfully requests the status of the above application and when an action will be issued concerning the documents that were filed in the U.S. Patent Office by facsimile on March 11, 2002. The documents transmitted included:

- 1) Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181(a).
- 2) Preliminary Amendment (seven pages) originally faxed to the U.S. Patent Office on April 30, 2001.
- 3) Fax sheet confirming 007/07 pages of Preliminary Amendment was faxed to the U.S. Patent Office.

Serial No. 09/541,779 - Hirota
Art Unit 3746 - Attorney Docket 133.046
Page 2

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this or any other communication from or to credit any overpayments to Deposit Account No. 14-1080.

Respectfully submitted,



James E. Nilles
Registration No. 16,663

Dated: June 5, 2002

NILLES & NILLES, S.C.
U.S. Bank Center, Suite 2000
777 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: (414) 276-0977
Facsimile: (414) 276-0982

G:\Data\CLIENT\133\046\PTO-FAX2.doc

NILLES & NILLES, S.C.

JAMES E. NILLES
S. MICHAEL PATTON
LINDA E.B. HANSEN

CHARLOTTE SHAPIRO
THADDEUS C. STANKOWSKI

INTELLECTUAL PROPERTY ATTORNEYS

FIRSTAR CENTER, SUITE 2000
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5345

TELEPHONE: 414.276.0977

FACSIMILE: 414.276.0982

EMAIL: jnilles@nilles-nilles.com

FACSIMILE TRANSMITTAL SHEET

TO:	Office of Petitions	FROM:	James E. Nilles
COMPANY:	U.S. Patent Office	DATE:	March 11, 2002
FAX NO.:	703-308-6916	PAGES:	13 (Including cover sheet)
RE:	U.S. Ser. No. 09/541,779 Attorney Docket 133.046	OPERATOR:	Diane Schwaiger
<input type="checkbox"/> Original Will Follow		<input checked="" type="checkbox"/> Original Will Not Follow	
<input type="checkbox"/> Urgent		<input type="checkbox"/> For Review	
		<input type="checkbox"/> Please Comment	
		<input type="checkbox"/> Please Reply	
		<input type="checkbox"/> Please Recycle	

Sir:

Attached are the following documents in connection with patent application U.S. Serial No. 09/541,779:

- 1) Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181(a)
- 2) Preliminary Amendment (seven pages) faxed to U.S. Patent Office on April 30, 2001
- 3) Fax sheet confirming 007/007 pages of Preliminary Amendment sent

G:\Data\CLIENT\133\046\PTO-FAX.doc

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, Attention: Office of Petitions, on the date shown below.

Diane Schwaiger
Diane Schwaiger

Facsimile: 703-308-6916
Pages - 13 (Including cover sheet)
Date: March 11, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hisatoshi Hirota Group Art Unit 3746
Serial No.: 09/541,779 Examiner: T. Solak
Filing Date: April 3, 2000 Docket No. 133.046
For: *Capacity Controller of Capacity Variable Compressor*
Customer No. 023907

**PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
UNDER 37 C.F.R 1.181(a)**

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

Sir:

In response to the Notice of Abandonment, date February 25, 2002, Applicant requests the withdrawal of the holding of abandonment under 37 C.F.R. 1.181(a). In particular, Applicant asserts the Application was not properly held abandoned.

According to the Notice of Abandonment, the Application is abandoned in view of Applicant's failure to timely file a proper reply to the Office letter mailed on May 9, 2001 because no reply has been received. However, Applicant submits that there is no reply required by the Office letter mailed on May 9, 2001 for at least four reasons. First, there is no Office action requiring a response. Second, the Interview Summary is not a proper Office

communication requiring a response. Third, the comments in the Interview Summary do not affirmatively require a response. Fourth, the only communication possibly requested by the Interview Summary was in fact filed in the U.S. Patent and Trademark Office.

First, there is no Office action requiring a response. More particularly, the Office letter mentioned in the Notice of Abandonment is an Interview Summary. The only possible indication in the Interview Summary of a possible required response is that it does not have box 2(i) checked. The Interview Summary goes on to state that "unless the paragraph above has been checked, the formal written reply to the last Office action must include the substance of the interview... If a reply to the last Office action has already been filed, Applicant is given one month from this interview date to file a statement of the substance of the interview." However, there is no "last Office action" requiring a response. The only communication received regarding any possible examination is the Interview Summary itself. However, as further discussed below, the Interview Summary itself does not require a response. The only mention of a response in the Interview Summary refers to a nonexistent "last Office action." Thus, there is no response required.

Second, the Interview Summary is not a proper Office communication requiring a response. In particular, the Interview Summary fails to comply with MPEP §713.04. More particularly, the Interview Summary expressly states that the form must be signed unless it is an attachment to a signed Office action. The Interview Summary does not contain the signature of the Examiner who conducted the interview. Furthermore, the Interview Summary is not an

attachment to a signed Office action. Accordingly, the Interview Summary is not a proper Office communication requiring a response.

Third, the comments in the Interview Summary do not affirmatively require a response. The comments only mention the substance of a telephonic communication on April 27, 2001. The comments only state Applicant was informed, "claims 1-3 were narrative in nature and lacked structure and (method) claims 8-9 lacked steps" and that Applicant informed the Examiner "he would fax a pre-amendment." Thus, the Interview Summary only stated information conveyed to Applicant and it only further stated Applicant's intentions. The Interview Summary did not state a requirement for a response. Therefore, the Interview Summary did not require a response.

Fourth, Applicant submits that the only communication possibly requested by the Interview Summary was in fact filed in the U.S. Patent and Trademark Office. In particular, the enclosed Preliminary Amendment noted in the Interview Summary was in fact filed on April 30, 2001. The Preliminary Amendment did in fact include the substance of the telephonic communication on April 27, 2001. Furthermore, the Preliminary Amendment contains a Certificate of Facsimile signed by Angela M. Weinstock certifying that the Preliminary Amendment was sent by facsimile to Examiner T. Solak at telephone number 703-308-7763 on April 30, 2001. Additionally, Applicant encloses the Facsimile Confirmation Transmission confirming receipt of the facsimile transmission including 7 pages at telephone number 703-308-7763 on April 30, 2001. Thus, the Preliminary Amendment noted in the Interview Summary was in fact filed in the U.S. Patent and Trademark Office. Accordingly, the only communication

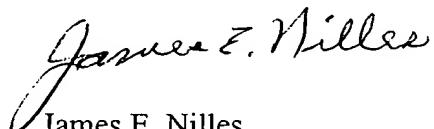
possibly requested by the Interview Summary was in fact filed in the U.S. Patent and Trademark Office.

Thus, the Application was not properly held abandoned. Accordingly, Applicant requests the withdrawal of the holding of abandonment.

Should the Examiner have any further questions or comments, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this or any other communication from or to credit any overpayments to Deposit Account No. 14-1080.

Respectfully submitted,



James E. Nilles
Registration No. 16,663

Dated: March 11, 2002

NILLES & NILLES, S.C.
Firststar Center, Suite 2000
777 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: (414) 276-0977
Facsimile: (414) 276-0982

NILLES & NILLES, S.C.

JAMES E. NILLES
ANDREW J. NILLES
JAY G. DURST
LISA M. GEHRKE
S. MICHAEL PATTON
LINDA E.B. HANSEN

INTELLECTUAL PROPERTY ATTORNEYS

CHARLOTTE SHAPIRO
THADDEUS C. STANKOWSKI
MATTHEW C. LOPPNOW

REGISTERED PATENT AGENTS:
LISA A. BRZYCKI
MATTHEW M. ESLAMI, P.E.

FIRSTAR CENTER, SUITE 2000
777 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202-5345

TELEPHONE: 414.276.0977

FACSIMILE: 414.276.0982

EMAIL: [Click here and type email]
@nilles-nilles.com

FACSIMILE TRANSMITTAL SHEET

TO:	Examiner T. Solak	FROM:	James E. Nilles		
COMPANY:	US Patent and Trademark Office	DATE:	April 30, 2001		
FAX NO.:	703.308.7763	PAGES:	7 (Including Cover Sheet)		
RE:	09/541,779	OPERATOR:	A. Weinstock		
<input type="checkbox"/> Original Will Follow		<input type="checkbox"/> Original Will Not Follow		<input type="checkbox"/> Enclosures Will Follow With Original	
<input type="checkbox"/> Urgent	<input type="checkbox"/> For Review	<input type="checkbox"/> Please Comment	<input type="checkbox"/> Please Reply	<input type="checkbox"/> Please Recycle	

NOTES:

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us by mail. Thank you.

I hereby certify that this correspondence is being sent to Examiner T. Solak at the United States Patent and Trademark Office.

Angela Weinstock

April 30, 2001
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Hisatoshi HIROTA** Art Unit: **Not Known**

Application No.: 09/541,779 Examiner: Solak

Filing Date: April 3, 2000 Docket No.: 133.046

For: CAPACITY CONTROLLER OF CAPACITY VARIABLE COMPRESSOR

PRELIMINARY AMENDMENT

Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

This Preliminary Amendment is directed to the new U.S. application as identified above. Please enter this preliminary amendment prior to calculating the fees and amend the application as follows:

IN THE CLAIMS

Please cancel claims 1-9 without prejudice and add the following new claims:

10. (New) A variable capacity controller of a compressor comprising:
a pressure controlled capacity variation mechanism connected to the solenoid
actuated capacity controller generating a variable control pressure for the mechanism on the
basis of an initial value of an inhalation pressure of the compressor;

wherein the capacity controller includes a valve seat located between a first valve chamber part and a second valve chamber part, and a piston actuated valve closure part to open or close communication between a differential pressure port connected to a control

pressure receiving part of the mechanism and a discharge pressure port connected to a compressor discharge pressure line;

a pressure responsive piston valve body loaded in an opening direction of the piston actuated valve closure part by a spring force;

wherein the piston actuated valve closure part includes a pressure receiving area loaded via an inhalation pressure port by the inhalation pressure of an inhalation pressure line of the compressor, and a solenoid for generating a thrust force for actuating the piston actuated valve closure part relative to the valve seat, the discharge pressure port and the inhalation pressure port being interconnected by a leakage passage;

wherein the piston actuated valve closure part is located at one side of the valve seat in the first valve chamber part connected to the differential pressure port, and is unitarily formed at one end of the piston valve body with the pressure receiving area loaded by the variable control pressure in the differential pressure port in a closing direction towards the valve seat;

wherein the piston actuated valve closure part is slidably provided within the second valve chamber part with the pressure receiving area loaded via the inhalation pressure port within the second valve chamber part by the inhalation pressure in the opening direction of the piston actuated valve closure part;

wherein the solenoid thrust acts upon the piston actuated valve closure part in the opening direction of the piston actuated valve closure part when the solenoid is supplied with current, the value of which determines the value of a differential pressure between the control pressure and the inhalation pressure at the differential pressure port; and

wherein the differential pressure port is connected to a control pressure cylinder part of a cylinder and increasing control pressure at the differential pressure port adjusts the compressor capacity towards a maximum.

11. (New) A capacity controller according to claim 10, wherein the fixed differential pressure is proportional to the value of the current supplied to the solenoid.

12. (New) A capacity controller according to claim 10, wherein an adjustment range of pressure variations of the variable control pressure at the differential pressure port is wider than a range of pressure variations at the inhalation pressure port.

13. (New) A capacity controller of a compressor with variable capacity comprising:
a pressure controlled capacity variation mechanism connected to the solenoid actuated capacity controller generating a variable control pressure for the mechanism on the basis of an initial value of an inhalation pressure of the compressor;
wherein the capacity controller includes a valve seat situated between a first valve chamber part and a second valve chamber part and a piston actuated valve closure part to open or close communication between a differential pressure port connected to a control pressure receiving part of said mechanism and another port connected to a line of the compressor;

a pressure responsive piston valve body loaded in a closing direction of the piston actuated valve closure part by a spring force, the piston valve body having a pressure receiving area loaded via the inhalation pressure of an inhalation pressure line of the compressor in an opening direction of the piston actuated valve closure part relative to the valve seat;

wherein the differential pressure port and a discharge pressure line of the compressor are interconnected by a leakage passage;

wherein the piston actuated valve closure part and the valve piston body are located at a side of the valve seat in the second valve chamber part connected to the inhalation pressure port;

wherein the piston actuated valve closure part is unitarily formed at an end of the valve piston body with a pressure receiving area loaded by the variable control pressure in the differential pressure port in the opening direction relative to the valve seat;

wherein the solenoid thrust acts upon the valve piston body in the closing direction of the piston actuated valve closure part when the solenoid is supplied with a current, the value of which determines the value of a differential pressure between the control pressure

and the inhalation pressure at the differential pressure port; and

wherein the differential pressure port is connected to a control pressure cylinder part of a cylinder of the mechanism and increasing control pressure at the differential pressure port adjusts the compressor capacity towards a maximum.

14. (New) A capacity controller according to claim 13, wherein the fixed differential pressure is proportional to the value of the current supplied to the solenoid.

15. (New) A capacity controller according to claim 13, wherein an adjustment range of pressure variations of the variable control pressure at the differential pressure port is wider than a range of pressure variations at the inhalation pressure port.

16. (New) A method to control the capacity of a compressor having variable capacity by a pressure controlled capacity variation mechanism and a solenoid actuated capacity controller comprising the steps of:

generating a variable control pressure with the compressor for the mechanism corresponding to variations of an inhalation pressure of the compressor;

controlling an expanded variation range of a differential pressure between the control pressure actuating the mechanism and the inhalation pressure of the compressor by the value of a current supplied to the solenoid of the controller; and

maintaining an initial value of the differential pressure by adding pressure of a high pressure refrigerant of a discharge pressure line of the compressor via the controller to the control pressure and by permanently superimposing a predetermined pressure relieving throttling function between the mechanism and a low pressure inhalation line of the compressor.

17. (New) A method to control the capacity of a compressor having variable capacity by a pressure controlled capacity variation mechanism and a solenoid actuated

capacity controller comprising the steps of:

generating a variable control pressure with the compressor for the mechanism corresponding to variations of an inhalation pressure of the compressor;

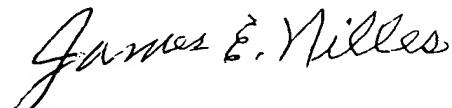
controlling an expanded variation range of a differential pressure between the control pressure and the inhalation pressure by the value of a current supplied to the solenoid of the controller; and

maintaining an initial value of the differential pressure by relieving a part of the control pressure via the controller to a low pressure inhalation line of the compressor and by permanently superimposing a predetermined pressure adding throttling function between the mechanism and a high pressure refrigerant discharge line of the compressor.

REMARKS

Claims 1-9 have been canceled, claims 10-17 have been added and claims 10-17 are pending in this application. No new matter has been added and reconsideration of the application is respectfully requested. The Commissioner is hereby authorized to deduct any additional fees arising as a result of this Amendment or any other communication from Deposit Account No. 14-1080.

Respectfully submitted,



James E. Nilles
Registration No. 16,663

Dated: April 30, 2001

NILLES & NILLES, S.C.
777 East Wisconsin Avenue, Suite 2000
Milwaukee, WI 53202
Telephone (414) 276-0977
Facsimile (414) 276-0982

***** -COMM- - DATE APR-30-20 TIME 10:07 *****

MODE = MEMORY TRANSMISSION

START=APR-30 10:04 END=APR-30 10:07

FILE NO.-616

NILLES NILLES

***** - NILES NILES - * - 414 276 0982 - *****

NILLES & NILLES,^{sc.}

JAMES E. NILLES
ANDREW J. NILLES
JAY G. DURST
LISA M. GEHRKE
S. MICHAEL PATTON
LINDA E.B. HANSEN

INTELLECTUAL PROPERTY ATTORNEYS

FIRSTSTAR CENTER, SUITE 2000
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5345

CHARLOTTE SHAPIRO
THADDEUS C. STANKOWSKI
MATTHEW C. LOPPNOW

TELEPHONE: 414.276.0977
FACSIMILE: 414.276.0982
EMAIL: [Click here and type email]
@nilles-nilles.com

REGISTERED PATENT AGENTS:
LISA A. BRZYCKI
MATTHEW M. ISLAMI, P.E.

FACSIMILE TRANSMITTAL SHEET

TO:	Examiner T. Solak	FROM:	James E. Nilles
COMPANY:	US Patent and Trademark Office	DATE:	April 30, 2001
FAX NO.:	703.308.7763	PAGES:	7 (Including Cover Sheet)
RE:	09/541,779	OPERATOR:	A. Weinstock
<input type="checkbox"/> Original Will Follow		<input type="checkbox"/> Original Will Not Follow	
<input type="checkbox"/> Urgent		<input type="checkbox"/> For Review	
<input type="checkbox"/> Please Comment		<input type="checkbox"/> Please Reply	
<input type="checkbox"/> Please Recycle			

NOTES:



UNITED STATES PATENT AND TRADEMARK OFFICE

3337.04-US-01
H.P.



In re Application of
Hisatoshi Hirota
Application No. 09/541,779
Filed: April 3, 2000
For: Capacity Controller of Capacity
Variable Compressor

MAILED

OCT 28 2004

Director's Office
Group 3700

DECISION ON PETITION

RECEIVED

NOV 01 2004

PATTERSON, THUENTE, SKAAR
& CHRISTENSEN, P.A.

Paper No. 14

RECEIVED
U.S. PATENT AND TRADEMARK OFFICE
DEPT. OF COMMERCE
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

This is a decision on the petition as embodied in the paper styled "Supplemental Information for Petition to Withdraw Holding of Abandonment", filed by facsimile transmission on September 24, 2004. It appears that a petition to withdraw a holding of abandonment for failure to reply to the Office letter dated May 9, 2001 was previously filed on March 11, 2002 by facsimile transmission, but is not in the record. The petition is being considered under 37 CFR 1.181, and no fee is required.

The petition is dismissed.

Petitioner alleges that this application is not abandoned because petitioner did not receive a complete Office action dated May 9, 2001, but instead received only a PTO-90C cover sheet, a PTO-413 form comprising two pages, which recorded an interview with the examiner, and a Notice of Draftsperson's Patent Drawing Review.

It is not clear from the petition whether the March 11, 2002 filing was filed by Mr. James E. Nilles, who was formerly the attorney of record, or whether it was filed by current counsel. However, it appears from the September 24, 2004 that the docket records for this file no longer exist, and that an "Office Action or Examiner's Letter" were in fact received. However, the file jacket and computer word processing files have been reviewed by current counsel and appear to indicate that no Response to an Office Action was ever prepared or attempted. Handwritten notes left by Mr. Nilles dated February 22, 2002 state the he had only received an interview summary and never received the action.

A review of the record shows that an interview summary form was attached to the Office letter in question. That summary indicates that in view of the interview, a preliminary amendment would be filed. There is a preliminary amendment of record dated April 30, 2001 but the May 9, 2001 Office letter does not acknowledge receipt thereof.

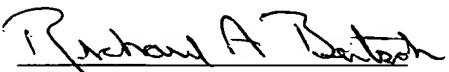
Petitioner is not, in effect, alleging nonreceipt of Office correspondence. Rather, petitioner is alleging receipt of incomplete Office correspondence, and that petitioner, through counsel at the time of the receipt of incomplete Office correspondence, had no reason to believe that what was mailed to petitioner on May 9, 2001 was an Office action at all, as opposed to being simply an interview summary form and a requirement regarding objections to the drawings. However, this allegation is not supported by any evidence supplied directly by former counsel, Mr. Nilles. Rather, this allegation, on the current record, amounts to no more than speculation based upon a handwritten note dated more than nine months after receipt of the May 9, 2001 papers. There is no explanation of what steps, if any, were taken on behalf of petitioner with respect to the practice set forth in MPEP § 710.06, and why no steps appear to have been taken. It is noted that the practice set forth in MPEP § 710.06 clearly indicates that if there is an error in an Office action and the error is not called to the attention of the Office until after expiration of the reply

Initial
Petition
deadline
12-28-04

period, the period will not be restarted. Absent more information regarding the matter, there does not appear to be a basis for withdrawing the holding of abandonment at this time.

Petitioner may file a renewed petition, without fee. The renewed petition should be directed to Technology Center 3700 at the address in the letterhead above. The renewed petition must be filed within two months of the date of this decision, or it will not receive consideration on the merits. See 37 CFR 1.181(f). The renewed petition should state the matters discussed above. As a courtesy, a complete copy of the Office letter dated May 9, 2001 is attached to this Decision.

PETITION DISMISSED.



Richard A. Bertsch, Director
Technology Center 3700

Enclosure

Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, MN 55402-2100



UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/541,779 04/03/00 HIROTA

H 133.046

0M02/0509

EXAMINER

JAMES J NILLES
NILLES & NILLES SC
FISTAR CENTER SUITE 2000
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5345

SOLAK, T

ART UNIT

PAPER NUMBER

3746

DATE MAILED:

05/09/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/541,779	HIROTA, HISATOSHI
	Examiner Timothy P. Solak	Art Unit 3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 03 April 2000.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 10-17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- 1) Certified copies of the priority documents have been received.
- 2) Certified copies of the priority documents have been received in Application No. _____.
- 3) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892)

16) Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

18) Interview Summary (PTO-413) Paper No(s) _____

19) Notice of Informal Patent Application (PTO-152)

20) Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Specification

3. The disclosure is objected to because of the following informalities:
 - Recitation of "spring 32" page 3, lines 27 and 28 and page 4 lines 6 and 8, should be --spring 33--.
 - Recitation of "discharge pressure port 20d" page 5, line 7 should be --discharge pressure port 28d--.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 101 for combining apparatus limitations into the steps of a method claim. Applicant's set forth an apparatus preamble and thereafter follows with method steps in the recitation of the body of the claims. Accordingly, the improper inclusion of both apparatus and method language set forth an inappropriate claim. Consequently, the claims fail to conform with current U.S. practice.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 10-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "pressure receiving area" in lines 12 and 19, rendering the claim indefinite. The "pressure receiving area" is loaded by both a "inhalation pressure" in line 13 and a "variable control pressure" in line 20. Are these two different areas?

8. Regarding claim 13, recitation of "another port" in line 8 renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "another port"), thereby rendering the scope of the claim unascertainable.

9. Claims 11, 12, 14 and 15 are rejected as being incomplete for presenting non-bonafide method claims. Applicants set forth an apparatus preamble followed by method steps in the body of the claims. Accordingly, the improper inclusion of both apparatus and method like

language render the claims indefinite. Therefore, these claims have not been treated in the art rejections. However, this is not to be presumed as an indication of allowable subject matter.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Itoigawa et al. (4,932,843), in view of Kimura et al. (5,588,807). Itoigawa et al. teach a variable capacity controller of a compressor comprising: a pressure controlled capacity variation mechanism 40 connected to a solenoid actuated capacity controller 400. Itoigawa et al. disclose the capacity controller includes: a valve seat 405a located between a first valve chamber (area connected to port 98, see Figure 3) and a second valve chamber 416; and a valve closure part 403/413 in communication between a differential pressure port 98 connected to the control capacity variation mechanism 40 and a discharge pressure port 96. Itoigawa et al. further disclose the piston actuated closure part includes: a pressure receiving area 416 loaded by inhalation pressure and a solenoid 414 for generating a thrust force for actuating the piston actuated valve closure part relative to the valve seat. Itoigawa et al. further teach a pressure responsive piston valve body 403 loaded in an opening direction by a spring 417 force. Itoigawa et al. discloses the piston actuated valve closure part is located at one side of the valve seat 405a in the first valve chamber connected to a differential pressure port 98 and is formed at one end of

the piston valve body with a pressure receiving area 403 loaded by variable control pressure in a closing direction. Itoigawa et al. further disclose the piston actuated valve closure part 413 is slidably provide within the second valve chamber 416, with the pressure receiving area loaded with pressure from an inhalation pressure port 97 in the opening direction of the piston actuated valve closure part. Itoigawa et al. further teach the differential pressure port is connected to a control pressure cylinder 200 and increasing the control pressure adjusts the compressor capacity towards a maximum (column 10, lines 48-54)

Although Itoigawa et al. teach most of the limitations of the claims including that thrust from a solenoid, supplied with a current, determines the value of the differential pressure, they do not disclose that energizing the solenoid opened the valve. It was old and well known in the art that obtaining identical functions, such as the opening or closing of a valve, by either activating or deactivating a common solenoid advantageously simplified a control system. Therefore, it would have been obvious to one of ordinary skill in the art of controls at the time the invention was made to have used the application of current to the solenoid to open the valve in the compressor taught by Itoigawa et al., to have advantageously simplified the control system.

Although Itoigawa et al. teach most of the limitations of the claims including a valve with an inhalation and discharge port, they do not disclose the ports interconnected by a leakage passage. Kimura et al. (807) disclosing a controller for a variable displacement compressor, specifically teach a leakage passage 23a interconnecting a discharge chamber 4b with a inhalation chamber 4a (see Figure 5). Kimura et al. (807) teach the leakage passage advantageously prevented high pressure from reaching the inhalation chamber (column 5, lines

48-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the leakage passage taught by Kimura et al. (807), in the compressor disclosed by Itoigawa et al., to have advantageously prevented high pressure from reaching the inhalation chamber.

12. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimura et al. (5,145,326), in view of Kimura et al. (807) (previously mentioned). Kimura et al. (326) teach a method of generating a variable control pressure corresponding to variations in an inhalation pressure (column 5, lines 24-27). Kimura et al. (326) further teach a method of controlling an expanded variation range of a differential pressure by changing the value of a current supplied to a solenoid (column 8, line 61 to column 9, line 2). Although Kimura (326) teach most of the limitations of the claims, they do not disclose a throttling function. Kimura (807) disclosing a variable displacement compressor, specifically teach a method of controlling the capacity of the compressor by maintaining a set value of the differential pressure by adding pressurized gas through a throttling orifice (column 3, lines 34-46) connected to either a low pressure inhalation line (see Figure 3) or a high pressure discharge line (see Figure 4). Kimura (807) teach this method advantageously increased the durability of the compressor (column 1, lines 55-60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method of throttling disclosed by Kimura et al. (807), in the method disclosed Kimura et al. (326), to have advantageously increased the durability of the compressor.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Heath (4,072,443) teaches a control valve for a variable stroke pump.
- Kanzaki et al. (5,547,346) teach a variable displacement compressor controlled by the differential pressure between the suction to discharge sides of the compressor.
- Esaki (5,000,666) teaches a control valve operating between a suction and discharge pressure.
- Nakajima (5,056,990) teaches a variable capacity vane compressor.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P. Solak whose telephone number is 703-308-6197. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached on 703-308-0102. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7763 for regular communications and 703-305-3588 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

TPS
May 6, 2001

Timothy S. Thorpe
Timothy S. Thorpe
Supervisory Patent Examiner
Group 3700

Interview Summary	Application No.	Applicant(s)
	09/541,779	HIROTA, HISATOSHI
	Examiner Timothy P. Solak	Art Unit 3746

All participants (applicant, applicant's representative, PTO personnel):

(1) Timothy P. Solak. (3) _____
 (2) Mr. Nilles. (4) _____

Date of Interview: 27 April 2001.

Type: a) Telephonic b) Video Conference
 c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
 If Yes, brief description:

Claim(s) discussed: 1-10.

Identification of prior art discussed: None.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: I informed Mr. Nilles of problems in claims 1-9, namely claims 1-3 were narrative in nature and lacked structure and (method) claims 8-9 lacked steps. Mr. Nilles informed me that he would fax a pre-amendment.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirement

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

NOTICE OF DRAFTPERSON'S PATENT DRAWING REVIEW

The drawing filed (insert date) 4/3/00 are:

A. not objected to by the Draftperson under 37 CFR 1.84 or 1.152.
 B. objected to by the Draftperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings with necessary. Corrected drawings must be submitted according to the instructions on the back of this notice.

<p>1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: <input type="checkbox"/> Black ink. Color. <input type="checkbox"/> Color drawing are not acceptable until petition is granted. <input type="checkbox"/> Fig.(s) _____ <input type="checkbox"/> Pencil and non black ink is not permitted. Fig(s) _____</p> <p>2. PHOTOGRAPHS. 37 CFR 1.84(b) <input type="checkbox"/> Photographs are not acceptable until petition is granted. <input type="checkbox"/> 3 full-tone sets are required. Fig(s) _____ <input type="checkbox"/> Photographs not properly mounted (must bristol board or photographic double-weight paper). Fig(s) _____ <input type="checkbox"/> Poor quality (half-tone). Fig(s) _____</p> <p>3. TYPE OF PAPER. 37 CFR 1.84(e) <input type="checkbox"/> Paper not flexible, strong, white and durable. <input type="checkbox"/> Fig.(s) _____ <input type="checkbox"/> Erasures, alterations, overwritings, interlineations, folds, copy machine marks not acceptable. (too thin) <input type="checkbox"/> Mylar, vellum paper is not acceptable (too thin). <input type="checkbox"/> Fig(s) _____</p> <p>4. SIZE OF PAPER. 37 CFR 1.84(F): Acceptable sizes: <input type="checkbox"/> 21.0 cm by 29.7 cm (DIN size A4) <input type="checkbox"/> 21.6 cm by 27.9 cm (8 1/2 x 11 inches) <input type="checkbox"/> All drawings sheets not the same size. <input type="checkbox"/> Sheet(s) _____</p> <p>5. MARGINS. 37 CFR 1.84(g): Acceptable margins: <input type="checkbox"/> Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm SIZE: A4 Size <input type="checkbox"/> Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm SIZE: 8 1/2 x 11 <input type="checkbox"/> Margins not acceptable. Fig(s) _____ <input type="checkbox"/> Top (T) _____ Left (L) _____ <input type="checkbox"/> Right (R) _____ Bottom (B) _____</p> <p>6. VIEWS. 37 CFR 1.84(h) REMINDER: Specification may require revision to correspond to drawing changes. <input type="checkbox"/> Views connected by projection lines or lead lines. <input type="checkbox"/> Fig.(s) _____ Partial views. 37 CFR 1.84(h)(2) <input type="checkbox"/> Brackets needed to show figure as one entity. <input type="checkbox"/> Fig.(s) _____ <input type="checkbox"/> Views not labeled separately or properly. <input type="checkbox"/> Fig.(s) _____ <input type="checkbox"/> Enlarged view not labeled separately or properly. <input type="checkbox"/> Fig.(s) _____</p>	<p>7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3) <input type="checkbox"/> Hatching not indicated for sectional portions of an object. <input type="checkbox"/> Fig.(s) _____ <input type="checkbox"/> Sectional designation should be noted with Arabic or Roman numbers. Fig.(s) _____</p> <p>8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i) <input type="checkbox"/> Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned, so that the top becomes the right side, except for graphs. Fig.(s) _____ <input type="checkbox"/> Views not on the same plane on drawing sheet. Fig.(s) _____</p> <p>9. SCALE. 37 CFR 1.84(k) <input type="checkbox"/> Scale not large enough to show mechanism with crowding when drawing is reduced in size to two-thirds in reproduction. <input type="checkbox"/> Fig.(s) _____</p> <p>10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l) <input checked="" type="checkbox"/> Lines, numbers & letters not uniformly thick and well defined, clean, durable and black (poor line quality). <input type="checkbox"/> Fig.(s) <u>1 5 6 8</u></p> <p>11. SHADING. 37 CFR 1.84(m) <input type="checkbox"/> Solid black areas pale. Fig.(s) _____ <input type="checkbox"/> Solid black shading not permitted. Fig.(s) _____ <input type="checkbox"/> Shade lines, pale, rough and blurred. Fig.(s) _____</p> <p>12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p) <input checked="" type="checkbox"/> Numbers and reference characters not plain and legible. <input type="checkbox"/> Fig.(s) _____ <input checked="" type="checkbox"/> Figure legends are poor. Fig.(s) <u>A 11</u> <input type="checkbox"/> Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(3) Fig.(s) _____ <input type="checkbox"/> English alphabet not used. 37 CFR 1.84(p)(3) Fig.(s) _____ <input type="checkbox"/> Numbers, letters and reference characters must be at least .32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3) Fig.(s) _____</p> <p>13. LEAD LINES. 37 CFR 1.84(q) <input type="checkbox"/> Lead lines cross each other. Fig.(s) _____ <input type="checkbox"/> Lead lines missing. Fig.(s) _____</p> <p>14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.48(l) <input type="checkbox"/> Sheets not numbered consecutively, and in Arabic numerals beginning with number 1. Fig.(s) _____</p> <p>15. NUMBERING OF VIEWS. 37 CFR 1.84(u) <input type="checkbox"/> Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig.(s) _____</p> <p>16. CORRECTIONS. 37 CFR 1.84(w) <input type="checkbox"/> Corrections not made from PTO-948 dated _____</p> <p>17. DESIGN DRAWINGS. 37 CFR 1.152 <input type="checkbox"/> Surface shading shown not appropriate. Fig.(s) _____ <input type="checkbox"/> Solid black shading not used for color contrast. <input type="checkbox"/> Fig.(s) _____</p>
---	--

COMMENTS

REVIEWER CBR DATE 4/30/01 TELEPHONE NO. 203 305 1359

ATTACHMENT TO PAPER NO. 8

PTO COPY

REMINDER

Drawing changes may also require changes in the specification, e.g., if Fig. I is changed to Fig. IA, Fig. IB, Fig. IC, etc., the specification, at the Brief Description of the Drawings, must likewise be changed. Please make such changes by 37 CFR 1.312 Amendment at the time of submitting drawing changes.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities--37 CFR 1.85

File new drawings with the changes incorporated therein. The application number or the title of the invention, inventor's name, docket number (if any), and the name and telephone number of a person to call if the Office is unable to match the drawings to the proper application, should be placed on the back of each sheet of drawings in accordance with 37 CFR 1.84(c). Applicant may delay filing of the new drawings until receipt of the Notice of Allowability (PTOL-37). Extensions of time may be obtained under the provisions of 37 CFR 1.136. The drawing should be filed as a separate paper with a transmittal letter addressed to the Drawing Review Branch.

2. Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the three-month shortened statutory period set in the Notice of Allowability (PTOL-37). If a correction is determined to be unacceptable by the Office, applicant must arrange to have acceptable correction resubmitted within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within set (or extended) period will result in **ABANDONMENT** of the Application.

3. Corrections other than Informalities Noted by the Drawing Review Branch on the Form PTO 948

All changes to the drawings, other than informalities noted by the Drawing Review Branch, **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.